

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

LANE GROW,)	3:07-CV-0105-LRH (RAM)
)	
Plaintiff,)	<u>MINUTES OF THE COURT</u>
)	
vs.)	August 21, 2007
)	
ADAM GARCIA, an individual, TODD)	
RENWICK, an individual, KEVIN)	
YOUNGFLESH, an individual, ED)	
RINNE, an individual,)	
)	
Defendants.)	
_____)	

PRESENT: THE HONORABLE ROBERT A. McQUAID, JR., U.S. MAGISTRATE JUDGE

DEPUTY CLERK: FRANK JUSTILIANO REPORTER: NONE APPEARING

_COUNSEL FOR PLAINTIFF(S): NONE APPEARING

COUNSEL FOR DEFENDANT(S): NONE APPEARING

MINUTE ORDER IN CHAMBERS:

Plaintiff has filed a Motion to Strike Answer and for Entry of Default (Doc. #22). Defendant Kevin Youngflesh has opposed the Motion (Doc. #24) and there has been no reply.

The court ruled on a similar case in *McMillen v. J.C. Penney Co., Inc.*, 205 F.R.D. 557 (D. Nev. 2002). Consistent with the court's reasoning in that case Plaintiff's Motion in this case should be denied.

In considering the factors to be considered in deciding such a motion the court concludes as follows:

- (1) There will be no prejudice to the Plaintiff,
- (2) The merits of Plaintiff's substantive claim will be at issue,

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- (3) The sufficiency of Plaintiff's complaint will likely be at issue,
- (4) The sum of money at stake in the action need not be considered,
- (5) There will likely be a dispute concerning material facts,
- (6) The Defendant's failure to answer was due to excuseable neglect, and
- (7) There is a strong policy favoring decisions on the merits.

For the foregoing reasons, Plaintiff's Motion to Strike Answer and for Entry of Default (Doc. #22) is **DENIED**.

IT IS SO ORDERED.

LANCE S. WILSON, CLERK

By: /s/
Deputy Clerk